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SUPREME COURT OF THE UNITED STATES.

No. ~~102~~ 62.

THE UNITED STATES, APPELLANT,

VERSUS

FRANCIS RICHARD.

APPEAL FROM THE SUPERIOR COURT FOR THE EASTERN DISTRICT OF FLORIDA.

INDEX.

	Original.	Print.
Petition for confirmation of lands, from	1 to 5	2
Answer of the United States' attorney to the foregoing petition, from	5 to 9	3
Replication of claimant	9	5
Commission to take testimony, No. 1	11	6
Interrogatories and cross-interrogatories attached to said commission, and testimony taken under the same, from	13 to 20	7
Commission to take testimony, No. 2	20	10
Interrogatories and cross-interrogatories attached to said commission, and testimony taken under the same, from	20 to 35	11
Memorial for grant, and decree thereon, offered in evidence by claimant, from	35 to 37	16
Hearing of this cause, commenced from entry of record	38	17
Translation of memorial and decree, by order of the court, by the translator of the court, from	39 to 41	18
Translation of memorial and decree, by order of the court, by the keeper of the public archives	42	19
Literal translation of memorial and decree, by the keeper of the public archives, by order of the court, from	43 to 45	20
Opinion of the court	46	21
Decree of confirmation	48	21
Copies of the plats of the surveys of the land claimed herein, at	52	22

Before the honorable the judge of the superior court for the eastern district of Florida, and specially authorized, by law, to receive and adjudicate claims and titles to land in the district of East Florida.

Be it remembered, that on the twenty-fifth day of February, in the year of our Lord one thousand eight hundred and twenty-nine, Francis Richard, by John Rodman, his attorney, brought and filed in the clerk's office of the

superior court for the eastern district of Florida, his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

Petition for confirmation.

To the honorable Joseph L. Smith, judge of the superior court for the eastern district of Florida.

The petition of Francis Richard, a resident inhabitant of Duval county, in said district, respectfully showeth:

That your petitioner, at the time of the cession of Florida to the United States, was a subject of the King of Spain, and, for many years previous, a resident inhabitant of East Florida.

That, in the year 1817, and while your petitioner was domiciled in East Florida aforesaid, he obtained from the constituted authorities of the King of Spain, under the administration of Governor Coppinger, in East Florida, a grant of land, bearing date the 4th of June, 1817, for five miles square, equal to 16,000 acres, situated on a creek known by the name of Pottsburg, bounding the lands of Strawberry hill; and, in case of insufficiency in that situation, its equivalent in Cedar swamp, about a mile to the east of McQueen's mills, upon condition that your petitioner should build a water saw mill on said land.

That said land not having been surveyed under the Spanish Government of East Florida, your petitioner, in the year 1824, caused a survey thereof to be made, conformably to the said grant, by Andrew Burgevin, a surveyor in this district, in two different tracts, one of 14,400 acres, situated on Pottsburg creek aforesaid, and the other of 1,600 acres, situated in Cedar swamp aforesaid. The certificate and plat of the survey of the said 14,400 acres, dated the 1st of December, 1824, exhibit the following lines and boundaries, to wit: The first line runs south 84 degrees, west 35 chains, to a pine tree; the second line runs south 5 degrees, west 84 chains; the third line runs south 30 degrees, west 135 chains; the fourth line runs south 65 degrees, east 91 chains; the fifth line runs south 25 degrees, east 165 chains; the sixth line runs north 80 degrees, east 85 chains; the seventh line runs north 3 degrees, east 195 chains; the eighth line runs north 65 degrees, east 12 chains; the ninth line runs north 115 chains; the tenth line runs north 65 degrees, west 10 chains; the eleventh line runs north 10 degrees, west 318 chains; the twelfth line runs north 40 degrees, west 110 chains; the thirteenth line runs south 50 degrees, west 80 chains; the fourteenth line runs west 100 chains; which said survey and plat represent a tract of 17,610 acres, from which must be deducted divers tracts previously owned by the said Francis Richard, and other persons, and land covered with water, amounting to 3,210 acres, as appears by the certificate of survey and plat, leaving for your petitioner, of the said grant as above mentioned, 14,400 acres.

The survey and plat of the tract of 1,600 acres in Cedar swamp, to complete the quantity granted, bear date the 26th November, 1824, and exhibit the following lines and boundaries, to wit: The first line runs north 200 chains, to a pine tree, marked X; the second line runs west 80 chains, to a black oak tree, marked X; the third line runs south 200 chains, to a cypress tree, marked X; the fourth line runs east 80 chains, to a pine tree, marked X.

And your petitioner further showeth, that, in virtue of said grant, your petitioner, soon after the date of the same, entered upon, and took possession of, the land granted in the situations mentioned in said surveys and plats,

and built upon the tract situated at Pottsburg creek, in the year 1819, a substantial water saw mill, which has ever since been in full operation.

That on the your petitioner presented to the board of land commissioners for East Florida, his claim for the said 16,000 acres of land, in virtue of the said grant; that evidences of his title to said land, and testimony in support of the same, were produced before said board, but that the register and receiver for East Florida, acting as a board of land commissioners, in their report on the claim of your petitioner, made to the Secretary of the Treasury of the United States, express an opinion unfavorable to the claim of your petitioner; but which said grant and claim is embraced by the treaty between Spain and the United States, of the 22d of February, 1819, and which said grant or claim has not been reported, by the said land commissioners, as antidated or forged, or by any other commissioners.

Your petitioner having fully performed the condition of said grant, and the same being absolute for 16,000 acres of land, upon the performance of the condition of building a water saw mill on the same, your petitioner is advised that the said register and receiver have taken an erroneous view of the terms of said grant, and that he has a just and lawful title to the said 16,000 acres of land on Pottsburg creek, and in Cedar swamp. Your petitioner therefore prays this honorable court to examine the validity of said grant, and to confirm the same fully, embracing the two tracts of land, comprising together 16,000 acres, as above mentioned.

And that a citation may duly issue to the district attorney of the United States for this district, requiring him to appear in this honorable court, on the part of the United States, and answer this petition.

And your petitioner will ever pray, &c.

J. RODMAN,
Att'y for the Petitioner.

Dated 24th February, 1829.

A copy of the above petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for this district; and the return of the said marshal thereon is in the words and figures following, to wit: "Executed 13th March, 1829, by serving Thos. Douglas, esquire, with a copy of this process."

"WATERS SMITH, *Marshal.*"

Answer of the attorney of the United States.

And afterwards, to wit: On the twenty-fourth day of March, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglas, esquire, United States' attorney for the district of East Florida, brought and filed in the clerk's office aforesaid, his answer to the said petition; which said answer is in the words and figures following, to wit:

Superior Court, May term, 1829.

THE UNITED STATES OF AMERICA, *ads.* FRANCIS RICHARD.

The answer of Thomas Douglas, esquire, United States' attorney for the district of East Florida, to the petition or bill of complaint of Francis Richard.

The said attorney, in the name, and for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects and irregularities in the said petition or bill of complaint contained, for answer thereunto, or to so much thereof as it is material and necessary for the said United States to answer unto, answereth and saith:

That he has no knowledge of any such grant of lands having been made by the constituted authorities of the King of Spain, under the administration of Governor Coppinger in East Florida, to the said Francis Richard as is in the said petition or bill of complaint mentioned, set forth and described, nor of the making of the survey therein mentioned and described, or of the building of the said mill, as is alleged, stated, and set forth, in said petition or bill of complaint, except what he has derived from a perusal of the petition or bill of complaint aforesaid, and cannot, therefore, either admit or deny the same, but respectfully prays this honorable court to require of the said Francis Richard due proof thereof, and of all the matters and things in the said petition or bill of complaint by him thereof alleged and set forth as they are therein stated, according to law and the usages of courts of equity.

And this respondent avers, that if any such grant was made by the said constituted authorities of the King of Spain under the administration of the said Governor Coppinger in East Florida, to the said Francis Richard, as is alleged, stated, and set forth, and described in the said petition or bill of complaint (which is by no means admitted,) it was made contrary to, and in violation of the laws, ordinances, and royal regulations of the Government of Spain, providing for the granting of lands in its provinces, and particularly those relating to the granting of lands in the said province of East Florida, in which said lands are situated, all of which will more fully appear by reference to the said laws, ordinances, and royal regulations, which this respondent begs leave to introduce and read on the hearing of this cause.

And this respondent denies that any power had been conferred upon the said constituted authorities under the administration of the said Governor Coppinger, by the Spanish Government aforesaid, (at the time when said grant is alleged to have been made,) to make grants of land in the said province of East Florida, of the nature, magnitude, and description of the one claimed and described in the said petition or bill of complaint, and that said grant, (if any such was made,) was never approved by the King of Spain, and was and is wholly null and void.

This respondent admits that he has been informed that the said Governor Coppinger, in the said year, 1817, did grant or concede to the said Francis Richard a right to build a water saw mill on the creek known by the name of Pottsburg, bounding the lands of Strawberry hill; and that land not being sufficient, its equivalent in Cedar Swamp, about a mile to the east of McQueen's mills, but with the precise condition that, until the said Francis Richard established said mill, said concession should be considered as if it had never been made, and of no value or effect until that event took place, that then, to wit, when said mill was built to prevent his, the said Francis Richard's being injured by the increased expenses he would be at, he, by the terms of said concession, had the privilege of cutting the pine trees which were comprised within a square of five miles, or its equivalent, which right he was to enjoy without any person being able to diminish it in any manner, but whether the said land on Pottsburg creek were sufficient or not for the purposes contemplated by the building of such mill, or whether the

said mill was built or not, or indeed whether any such grant was ever made to the said Francis Richard, as is last above mentioned, this respondent has no knowledge except from report, and cannot, therefore, either admit or deny the same, but leaves the said petitioner to make proof of his title (if any he has,) to said land, the best way that he can.

And, this respondent further admits, that the said Francis Richard did present a claim of the description of the one last above mentioned to the board of land commissioners in said petition or bill of complaint mentioned for said land, and that said board of commissioners reported against its confirmation.

And this respondent further saith, that the grant or concession last aforesaid, (if any such was made,) was made contrary to, and in violation of, the said laws, ordinances, and royal regulations above mentioned, and without any authority on the part of said Governor Coppinger to make it; and that it was wholly null and void, and that if said last mentioned grant or concession has been duly made by competent authority, and the said mill had been built according to the condition thereof, it would have given to the said Francis Richard no right of soil in said land, nor any other right whatever, except what might have been necessary to the proper use of the said mill, and to the cutting and carrying off the said pine trees.

And now, having fully answered all the matters and things in the said petition or bill of complaint alleged, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit sustained, may be adjudged and decreed to them, &c.

THOS. DOUGLAS,
United States' Attorney, &c.

Replication. And afterwards, to wit, on the eleventh day of March, in the year of our Lord one thousand eight hundred and thirty, the said Francis Richard, by John Rodman, his said attorney, brought and filed in the clerk's office aforesaid, his replication; which is in the words and figures following, to wit:

Superior Court for the Eastern District of Florida.

FRANCIS RICHARD,
vs.
THE UNITED STATES. } *In Chancery.*

The replication of Francis Richard, complainant, to the answer of Thomas Douglas, district attorney of the United States, on behalf of the United States, defendants.

This replicant, saving and reserving to himself all and all manner of advantage of exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies, of the answer of the said defendants, for replication thereunto saith, that he doth and will aver, maintain, and prove his said bill to be true, certain, and sufficient in the law to be answered unto by the said defendants, and that the answer is very uncertain, evasive and insufficient in the law to be replied unto by the replicant, without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and herein and hereby not well and sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which

matters and things this replicant is ready to aver, maintain and prove, as this honorable court shall direct; and humbly prays, as in and by his said bill he hath already prayed.

JOHN RODMAN,
Solicitor for the Complainant.

FRANCIS RICHARD,
vs.
THE UNITED STATES OF AMERICA. } *Land Claim.*

The following is the testimony, taken under commissions duly issued from this court in this cause, and directed to William I. Mills, a justice of the peace for Duval county; which commissions, as hereinafter appears, were duly executed and returned to the clerk's office of this court, and the testimony taken under the same, read in evidence on the hearing of this cause; and the said commissions, interrogatories, and cross-interrogatories, and the answers of the witnesses thereto, to the said commission annexed, are in the words and figures following, to wit:

TERRITORY OF FLORIDA.

In the name, and by the authority of the United States of America.

To William I. Mills and Samuel Fairbanks, justices of the peace in Duval county, or to either of them.

Commission to take testimony, No. 1.

Whereas a certain cause is now depending in the Superior Court for the eastern district of Florida, in which said cause Francis Richard is claimant, and the United States are defendants; and it being necessary to the investigation of said cause to have the testimony of Francis P. Fatio, Farquhar Bethune, Isaac Hendricks and Andrew Burgevin; and you having been named by the said claimant, and the said defendants, as commissioners to examine said witnesses on certain interrogatories:

Know ye, that confiding in your prudence, ability, and integrity, you are by these presents, appointed, and full power and authority are hereby given to you, or any one of you, diligently to examine the aforesaid witnesses upon certain interrogatories to be exhibited to you, or any one of you as aforesaid, as well on the part of the said claimant, as on the part of the said defendant, or of either party in said cause; and therefore you, or any one of you, are hereby authorized and requested, on a certain day, or on certain days, and at a certain place, or at certain places, to be appointed by you for that purpose, to cause the said witnesses to come before you, and then and there to examine each of them apart on said interrogatories, on their respective corporal oaths, or on their respective solemn affirmations, first taken before you, or any one of you, as aforesaid, and to take such, their examinations, and reduce them to writing on paper, and when you shall so have taken them, to sign the same with your names, and enclose and seal the whole together conformably to the instructions hereunto subjoined.

Witness, the honorable Joseph L. Smith, Judge of the Superior Court for the Eastern District of Florida, this sixteenth day of June, in the year one thousand eight hundred and twenty-nine, and in the 53d year of the independence of the United States of America.

GEORGE GIBBS, *Clerk.* [SEAL.]

Instructions.

When the testimony is taken, the commissioners are required to sign their names at the bottom of each sheet of the depositions, and of the whole, after fixing and sealing the several sheets together, then to enclose the whole examination, commission and all, in an envelope sealed up, and their names written on the outside across the seals, and to endorse the packet on the corner thereof with the names of the parties, and to direct the same to George Gibbs, esquire, C. S. C. E. D F., at St. Augustine, and put it in the post office, or deliver it to the agent or attorney of the party who obtained the commission.

GEO. GIBBS, *Clerk.*

Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for the confirmation for a grant of 16,000 acres of land.

Testimony taken, commission No. 1. *Interrogatories to be administered to Francis P. Fatio, Farquhar Bethune, Isaac Hendricks, and Andrew Burgevin, witnesses, residing in Duval county, to be examined on oath in the above entitled cause, on the part of the petitioner, before William I. Mills, or Samuel Fairbanks, justices of the peace in said county.*

1st interrogatory. Do you know any thing of the building of a saw-mill, by Francis Richard, the petitioner in this cause, on a tract of land situated on Pottsburg creek, on the south side of the river St. John's, in this district; the said tract of land being part of a grant of 16,000 acres made by the Spanish Government of East Florida to the said Francis Richard, in the month of June, 1817? If so, please to state when said saw mill was built and completed by the said Francis Richard, on Pottsburg creek aforesaid? and whether the same has been in full operation since, and is so at the present time?

JOHN RODMAN,
Attorney for the Claimant.

Thomas Douglas, United States' attorney for the district aforesaid, for and on their behalf reserves the right of making any objection at the hearing of said cause to the foregoing interrogatories, or either of them, or to the answers thereto, which he would be entitled to make if the witnesses were then examined in open court.

THOS. DOUGLAS,
United States' Attorney, &c.

Cross-interrogatories to be propounded on behalf of the United States to Francis P. Fatio, Farquhar Bethune, Isaac Hendricks, and Andrew Burgevin, the abovementioned witnesses.

1st. cross-interrogatory. If you answer the petitioner's direct interrogatories in the affirmative, please to state when, from whom, and in what manner, you obtained your information that the said mill was built on a tract of land, being part of a grant for 16,000 acres of land made by the Spanish Government of East Florida, to the said Francis Richard, in the month of June, 1817, and, particularly, whether you have a personal knowledge that

any such grant was ever made? If you have, please to state all you know on the subject, and how you obtained such knowledge?

Second. Please, to mention and describe particularly the quality of said tract of land, and state distinctly the quantity of live oak and other hammock land which it contains, or which is claimed by the said Francis Richard under the said supposed grant, and what portion of the said 16,000 acres are fit for cultivation.

Third. Is there any other matter or thing within your knowledge in relation to the said supposed grant of land, or the building of the said sawmill, which may be beneficial to the said United States in this cause? If there is, please to state the same as fully and particularly as if you were specially thereunto interrogated.

THOS. DOUGLAS,
United States' Attorney, &c.

In the Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for the confirmation of a grant for 16,000 acres of land.

The undersigned commissioner, having caused Francis P. Fatio, a witness in the above cause, to come before him, who, after being duly sworn true answers to make to the annexed interrogatories, answers as follows:

To the first interrogatory, the witness answers that, in the year 1820, he purchased lumber sawed at the mill of Francis Richard, on Pottsburg creek, and has since, in April, 1828, seen the said mill in operation, and has reason to believe that the said mill still continues in operation.

To the first cross-interrogatory, the witness has answered by the first direct interrogatory.

To the second cross-interrogatory, the witness answers that he knows not.

To the third cross-interrogatory, the witness answers, no.

F. P. FATIO.

Answered, sworn to, and subscribed, before me, this 31st July, 1829.
W. I. MILLS,
Justice of the Peace and Commissioner.

In the Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for the confirmation of a grant of 16,000 acres of land.

The undersigned commissioner having caused Farquhar Bethune, a witness in the above case, to appear before him, who, after being duly sworn true answers to make to the annexed interrogatories, answers as follows:

To the first interrogatory, the witness answers that he was at the sawmill of Francis Richard, on Pottsburg creek, in 1819; the mill was not in operation at that time, although it was in a state of forwardness, and, from the appearance of the work, it must have been in operation soon after that period, and has continued in operation up to the present time.

To the first cross-interrogatory, the witness answers, that he derived his

information respecting Francis Richard having a mill grant for 16,000 acres of land on Pottsburg creek, from G. J. F. Clark, esquire, the Surveyor General of East Florida.

Testimony under commission No. 1, continued.

To the second cross-interrogatory, the witness answers, that the land is generally what is called pine barren, and he supposes the quantity fit for cultivation to be very trifling.

To the third cross-interrogatory, the witness answers that he knows nothing that may be beneficial to the United States.

FARQR. BETHUNE.

Answered, sworn to, and subscribed before me, this 30th day of July, 1829.

W. I. MILLS, *Justice of the Peace and Com'r.*

In the Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for the confirmation of a grant for 16,000 acres of land.

The undersigned commissioner having caused Isaac Hendricks, a witness in the above cause, to come before him, who, after being duly sworn true answers to make to the annexed interrogatories, answers as follows:

To the first interrogatory, the witness answers, that Francis Richard did build a water saw mill on a tract of land on Pottsburg creek. The said mill was began in 1818, and went into operation some time after; the witness purchased from Francis Richard lumber that was sawed at the said mill in 1820; the said mill has continued in operation ever since, and is in operation at the present time.

To the first cross-interrogatory, the witness answers, that it was generally known, and of common and public notoriety, that Francis Richard had a mill grant on Pottsburg creek, from the Spanish Government.

To the second cross-interrogatory, the witness answers that there is very little of the land in said grant fit for cultivation; there is on it a few heads of branches that contain land fit for cultivation, but in such detached pieces as to be of no value; some large bays that are of no value whatever. The rest of the tract is pine barren.

To the third cross-interrogatory, the witness answers—No.

ISAAC HENDRICKS.

Answered, sworn to, and subscribed before me, this 1st day of August, 1829.

W. I. MILLS, *Justice of the Peace and Commissioner.*

Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for the confirmation of a grant for 16,000 acres of land.

The undersigned commissioner having caused Andrew Burgevin, a witness in the above case, to come before him, who, after being duly sworn true answers to make to the annexed interrogatories, answers as follows:

To the first interrogatory, the witness answers, that he has lived with Mr. Richard since March, 1824; the mill was, at that time, in operation, and has

continued so ever since. The said saw mill is situated on a tract of 14,400 acres of land on Pottsburg creek, being part of a tract of 16,000 acres of land granted by the Spanish Government to Francis Richard.

To the first cross interrogatory, the witness answers that he has seen a certified copy of the grant made to Francis Richard by the Spanish Gove nment.

To the second cross-interrogatory, the witness answers, that there is in the said tract about 1,000 acres of low swamp mixed with cypress and other water growth; on the borders of this swamp there are a few scattering scrubs and small hammocks which contain a few live oak trees: the remaining part is all pine barren. There are a few scattered pieces that are fit for cultivation, probably amounting in the whole to from three to five hundred acres.

To the third cross-interrogatory, the witness answers, that he knows nothing further that can be of any service to the United States.

ANDREW BURGEVIN.

Answered, sworn to, and subscribed, before me, this 1st day of August, 1829.

W. I. MILLS, *Justice of the Peace and Commissioner.*

TERRITORY OF FLORIDA.

In the name and by the authority of the United States of America.

Commission No. 2. To William I. Mills, a Justice of the Peace for the county of Duval.

Whereas, a certain cause is now depending in the superior court for the eastern district of Florida, in which said cause Francis Richard is claimant, and the United States defendants; and it being necessary to the investigation of said cause, to have the testimony of John F Brown, John Houston, and Zephaniah Kingsley; and you having been named by the said claimant and the said defendants as commissioner to examine said witnesses on certain interrogatories:

Know ye, that, confiding in your prudence, ability, and integrity, you are, by these presents, appointed, and full power and authority are hereby given to you diligently to examine the aforesaid witnesses upon certain interrogatories to be exhibited to you, as well on the part of the said claimant, as on the part of the said defendants, or of either party in said cause, and therefore you are hereby authorized and requested, on a certain day, or on certain days, and at a certain place, or at certain places, to be appointed by you for that purpose, to cause the said witnesses to come before you, and then and there to examine each of them apart on said interrogatories, on their respective corporal oaths, or on their respective solemn affirmations, first taken before you as aforesaid, and to take such their examinations, and reduce them to writing on paper; and when you shall so have taken them, to sign the same with your name, and enclose and seal the whole together, conformably to the instructions hereunto subjoined.

Witness, the honorable Joseph L. Smith, judge of the superior court for the eastern district of Florida, this 8th day of July, in the year one thousand eight hundred and twenty-nine, and in the 54th year of the independence of the United States of America.

[L. S.] GEORGE GIBBS, *Clerk.*

INSTRUCTIONS.

When the testimony is taken, the commissioners are required to sign their names at the bottom of each sheet of the depositions, and of the whole, after fixing and sealing the several sheets together; then to enclose the whole examination, commission and all, in an envelope, sealed up, and their names written on the outside across the seals, and to endorse the packet on the corner thereof, with the names of the parties, and to direct the same to George Gibbs, esquire, C. S C. E. D. F., at St. Augustine, and put it in the post office, or deliver it to the agent or attorney of the party who obtained the commission.

GEORGE GIBBS, *Clerk.*

Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for confirmation of a grant for 16,000 acres of land.

Testimony taken under commission No. 2.

Interrogatories to be administered to John F. Brown, John Houston, and Zephaniah Kingsley, witnesses residing in the counties of Duval and Nassau, to be produced, sworn, and examined in the above entitled cause, on the part of the petitioner, before any judge or justice of the peace in either of said counties.

To John F. Brown and John Houston.

1st interrogatory. Do you know any thing of the possession of a tract of land by the petitioner in this cause, Francis Richard, consisting of 14,400 acres, situated on Pottsburg creek, a little south of the river St. John, being part of a grant for 16,000 acres, made by the Spanish Government, under Governor Coppinger, on the 4th of June, 1817; and also of another tract of land for 1,600 acres, situated in Cedar Swamp, being part of the said grant for 6,000 acres? If aye, please to declare when the said Francis Richard first took possession of said tracts of land, whether you know of his having built a water saw mill on the land situated on Pottsburg creek, and, if so, when the said saw mill was completed and began operation, and whether the said mill still exists and is in operation; and any other matter or thing within your knowledge in regard to the construction of said mill on said land, and sawing of timber by said mill, either while this Territory was under the Spanish Government, or since its cession to the United States.

To Zephaniah Kingsley.

1st interrogatory. Do you know any thing of the erection of a water saw mill by Francis Richard, the petitioner in this suit, on a tract of land situated on Pottsburg creek, near the St. John river, the said land being part of a grant made by the Spanish Government of East Florida, for 1,600 acres of land, on the 4th of June, 1817? If aye, please to declare when said saw mill was built and began operation, and whether it has continued since to be in operation.

2d interrogatory. Were you a resident inhabitant of East Florida, and a subject of the King of Spain, for any length of time previous to the cession of Florida to the United States? If so, please to declare for how long a time.

3d interrogatory. From your knowledge of the laws and usages of the Spanish Government of East Florida, in regard to grants of land made by the Governors, please to state what has always been your understanding, and the universal opinion of the inhabitants of East Florida, under the Spanish Government, in regard to the powers and authority of the Governors to make grants of land. Had the said Governors unlimited powers to make such grants at their discretion, in remuneration for public services, or for the construction of mills and other mechanical works?

4th interrogatory. What has always been your understanding, and the universal opinion of the inhabitants of East Florida, under the Spanish Government, in regard to mill grants, that is, grants of land for the purpose of erecting thereon saw mills? Were such grants usually made for a certain quantity of land, and what was that quantity, and what was the nature of those grants? Were they or were they not always considered by the Government, and by the inhabitants, as grants for the land, in absolute property, on the building of the mill, being the condition mentioned in the grant? Please to state particularly all you know on the subject.

J. RODMAN, *Attorney for the Petitioner.*

Cross-interrogatories to be propounded, on behalf of the United States, to John F. Brown and John Houston, two of the abovenamed persons, as witnesses.

1st cross interrogatory. If you answer the first, direct, preceding interrogatory in the affirmative, please to state how you know that the tract of land therein mentioned was granted by Governor Coppinger, on the 4th of June, 1817; and, particularly, whether you have any knowledge that the said tract of land was ever granted to the said Francis Richard, or any other person, except from report? and, if you have, please to state when, how, and from whom you obtained your information?

2d cross-interrogatory. Please to state the quality of the said land, whether a considerable portion of it is hammock land, and how much of the said tracts of land is fit for cultivation, and how much of them is pine barren? and whether you have a personal knowledge that the said Francis Richard ever built a saw-mill on either of the said tracts of land? whether or not you ever saw such mill in operation thereon? and, if you did, when and what kind of mill it was? whether a mere temporary, or a good and substantial one? and particularly when it was first put in operation, and how many hundred feet of timber it would cut in a day?

3d cross-interrogatory. If you know of any other matter or thing in relation to the matters in controversy in this suit, which may be of service to the said United States on the trial of this cause, please to state it as fully and particularly as though you were now thereunto specially interrogated.

THOS. DOUGLASS,
United States' Att'y.

Thomas Douglass, United States' attorney for said district, for and on behalf of the same United States, reserves to them the right of objecting at the hearing of this cause, to the reading of any of the foregoing direct interrogatories, or the answers thereto, to which they would have a right to object if the witnesses were then introduced and examined in open court.

THOS. DOUGLASS,
United States' Attorney, &c.

Cross-interrogatories to be propounded, on behalf of the United States, to Zephaniah Kingsley, one of the abovenamed witnesses.

1st cross-interrogatory. If you answer the first, foregoing, direct, interrogatory in the affirmative, please to state how you know that a grant of said land was made by the Spanish Government of East Florida, on the 4th of June, 1817; and, particularly, whether you have any knowledge that the said tract of land was ever granted to the said Francis Richard, or any other person, except from report? and, if you have, please to state when, how, and from whom you obtained your information?

2d cross-interrogatory. Please to state the quality of said tracts of land, what portion of them is hammock, and how much of them is fit for cultivation, and how much thereof is pine barren; and whether you have any personal knowledge that the said Francis Richard ever built a saw-mill on either of the said tracts of land? whether or not you ever saw such saw-mill in operation thereon? and, if you did, when and what kind of mill it was? whether a mere temporary, or a good and substantial one? and particularly when it was first put in operation, and how much lumber it would cut in a day?

3d cross-interrogatory. Have you, or not, a suit now pending in the superior court for the district of East Florida, against the United States, under the act of Congress of the 23d of May, 1828, founded on what is generally termed a mill grant?

4th cross-interrogatory. If there is any other matter or thing within your knowledge relating to the matters in controversy in this suit, please to state it as fully and particularly as though you were now thereunto specially interrogated.

THOS. DOUGLAS,
U. States' Att'y.

Thomas Douglass, attorney of the said United States, for and on behalf of the same United States, reserves to them the right of objecting at the hearing of this cause, to the reading of any of the foregoing direct interrogatories, or the answers thereto, to which they would (be entitled or) have a right to object, if the said witness was then introduced and examined in open court, and particularly to the said 3d and 4th direct interrogatories, and the answers thereto.

THOS. DOUGLASS,
United States' Attorney, &c.

Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for confirmation of a grant for 16,000 acres of land.

The undersigned commissioner having caused John F. Brown, a witness in the above case, to come before him, who, after being duly sworn true answers to make to the annexed interrogatories, answers as follows:

Testimony taken under commission No. 2.

To the first interrogatory, the witness answers that he was at the mill of Francis Richard, on Pottsburg creek, in 1820, and purchased lumber sawed at the said mill at the said time; that said saw mill is still in existence and in operation.

To the first cross-interrogatory, the witness answers that he has seen the memorial of Francis Richard to Governor Coppinger, and the grant of the Governor for five miles square of land on Pottsburg creek, dated 4th June, 1817.

To the second cross-interrogatory, the witness answers that he knows nothing respecting the quality of the land, although he believes it to be principally pine land; the witness has, at different times previous to the cession of Florida, and since that time, seen the said saw mill in operation. The said saw mill was a good and substantial building, but the witness does not know what quantity of lumber was sawed per day. Further the witness knows nothing.

JOHN F BROWN.

Answered, sworn to, and subscribed before me, this 27th day of July, A. D. 1829.

W. I. MILLS,
Justice of the Peace, and Commissioner.

Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES. } Petition for confirmation of a grant for 16,000 acres of land.

The undersigned commissioner having caused John Houston, a witness in the above case, to come before him, who, after being duly sworn, answers as follows:

To the first interrogatory, the witness answers that he does know that Francis Richard is in possession of a tract of land on Pottsburg creek, on which he has a saw mill erected; the said mill was erected, and went into operation previous to the cession of Florida to the United States. Francis Richard was in possession of the said tract of land in 1818, and, at that time, had the frame of the mill in a state of forwardness: the said mill is still in existence, and is in operation. This witness purchased lumber sawed at the said mill both before and since the cession of Florida.

To the first cross-interrogatory, the witness answers, that he has seen a certified copy of a grant for the said tract of land from Governor Coppinger to Francis Richard, dated 4th June, 1817.

To the second cross-interrogatory, the witness answers, that he does not know what the quality of the said tract of land is; he has seen a small part of it in cultivation around the mill and house, which is all pine land; witness never saw the mill in operation, though he has seen the saws hanging in it; it appeared to be a substantial built mill, but does not know what quantity of lumber was sawed on the said mill per day.

To the third cross-interrogatory, the witness answers, that he knows nothing further in relation to this case.

JOHN HOUSTON.

Answered, sworn to, and subscribed before me, this 28th day of July, A .D. 1829.

W. I. MILLS,
Justice of the Peace, and Commissioner.

Superior Court for the Eastern District of Florida.

FRANCIS RICHARD, *vs.* THE UNITED STATES } Petition for confirmation of a grant for 16,000 acres of land.

The undersigned commissioner having caused Zephaniah Kingsley, a witness in the above case, to come before him, who, after being duly sworn, answers as follows:

To the first interrogatory, the witness answers that he does know that Francis Richard did build a water saw mill on Pottsburg creek, from which he (this witness) purchased sawed lumber in the year 1821; the mill had been in operation some time before that period, but how long does not remember: it generally sawed pine cypress and red bay lumber as wanted.

To the second interrogatory, the witness answers that he was a resident inhabitant of Florida, and a subject of the King of Spain, from the year 1803 until its cession to the Government of the United States.

To the third interrogatory, the witness answers, that, during his residence in Florida, under the dominion of Spain, the Spanish Governors were always invested by the King with his unlimited power and authority to dispose of lands as they saw fit without control, nor was there ever one instance of any concession of land made by the Governor of East Florida having been annulled or altered by the King of Spain during the time referred to above. The Governor would freely act as he thought best for the King's interest: his will constituted the law of the land, it being the highest tribunal within the province

To the fourth interrogatory, the witness answers, that all grants of land, mill grants as well as others, were governed by the Governor's decree upon those grants, as that alone could dispose of the King's property The Governor being the sole and only King's agent in lands, any failure of the grantee, in complying with the conditions, when fairly presented to the Governor, was usually decided by him upon the principle of equity, founded on some reasonable cause or excuse alleged by the grantee, which rendered it difficult, unsafe, or impossible for him to have fulfilled the conditions of his concession. This very case of mill grants was agitated and brought up before the Spanish Government, to know why they were not complied with; when it was made to appear to the Governor, by the grantees, that the political situation of the province, owing to Indians and revolutionary proceedings, had rendered all property not immediately protected by Spanish garrisons, unsafe and liable to be destroyed; the knowledge of which circumstance exonerated the grantees in the opinion of the Spanish Government: and the very same excuse can be offered since the cession, which has by no means secured property, or even life from Indian depredation, as this witness can prove to his sorrow: and his plantation on Drayton's island, in 1822, was burned up and destroyed by the Indians, and Mr. Smith, the overseer, a man of great respectability, was laid hold of, and his life threatened, by pointing guns at him, and otherwise ill treated, so as to make him afraid to remain for fear of being murdered.

To the first cross-interrogatory, the witness answers, that he has seen and read Francis Richard's concession of land, on Pottsburg creek, for the purpose of erecting a saw mill, which, to the best of his knowledge and remembrance, granted to him five miles square in that vicinity.

To the second cross-interrogatory, the witness answers, that he has never

sufficiently examined the said tract of land to say how much is fit for cultivation, but thinks it is generally pine land. This witness has often been at Francis Richard's saw mill on Pottsburg, and seen it in operation. The said mill has supplied the whole country with lumber for a number of years past; and many cargoes have been shipped to foreign ports of lumber sawed at the said mill. How much it saws per day, witness cannot say; but it is, in his opinion, substantially built.

To the third cross-interrogatory, the witness answers that he has a claim against the United States for a mill grant, which is filed before the superior court for the eastern district of Florida for adjudication.

To the fourth cross-interrogatory, the witness answers, that he has stated all that he knows in relation to the matter.

Z. KINGSLEY.

Answered, sworn to, and subscribed before me, this 28th July, A. D. 1829.

W. I. MILLS, *Justice of the Peace and Commissioner.*

Copy of the translation of the petition of Francis Richard, with the decree of the Governor thereon, offered and read in evidence on the hearing of this cause by the counsel for the claimant, as follows, to wit:

[TRANSLATION.]

Memorial for grant

Memorial to the Governor.—Francis Richard, an inhabitant of the river St. Johns, with due respect presents himself, and states to your excellency that, being desirous of employing his resources in benefit of the province and to his own interest, noticing the great scarcity in the province of sawed lumber for building, not only for home consumption, but for the object of commerce, it is his intention of building a water saw mill for that purpose; and it being necessary to have a place suitable for the same, as is Pottsburg creek bounding the lands of Strawberry hill, and said land not being sufficient for that purpose, there be granted him an equivalent, according to his request, in Cedar swamp, about one mile to the east of McQueen's mill, that he may use the cypress trees for boards; wherefore, he humbly prays your excellency to be pleased to grant him your superior permission, and the said five miles of land, for the purposes to which he alludes; and being granted, that he may commence, as soon as possible, so beneficial a work; and that, for that purpose, he may have on said land the timber necessary—a gift he hopes to receive from the goodness of your excellency. Plantation of St. Isabel, river St. Johns, 11th of May, 1811.

FRANCIS RICHARD, junr.

Decree of the Governor on memorial.

Decree.—St. Augustine, 4th June, 1817.—Taking into consideration the benefit and utility that would arise in the improvement and settlement of the province, should Francis Richard carry into effect what he proposes, it is granted to him, without injury to a third person, that he may construct a water saw mill on the creek known by the name of Pottsburg, bounding the lands of Strawberry hill, and this land not being sufficient, its equivalent in Cedar swamp, about a mile to the east of McQueen's mills; but with the precise condition that, until he establishes said mill, this concession shall be considered as if it were

never made, and of no value nor effect until that event takes place; that, then, to prevent his being injured by the increased expenses he will be at, he may make use of the pine trees which are comprised within a square of five miles, or its equivalent which is granted to him in the place pointed out; which advantage he shall enjoy without any person being able to diminish it in any manner. And, for his security, let there be issued to him a certified copy of this proceeding, which shall be filed in the Secretary's office for the evidence thereof in any event.

COPPINGER.

Certificate of Aguilar attached to memorial and decree.

I, Don Tomas de Aguilar, sub-lieutenant of infantry, and Secretary of the Government of the place of St. Augustine, and of the province thereof, for his Majesty, certify that the preceding copy is well and faithfully taken, and literally from its original, which remains in the archives under my charge, to which I refer; and in virtue of what is ordered in the superior decree, issued this day, I give the present in St. Augustine, of Florida, on the fourth of June, one thousand eight hundred and seventeen.

TOMAS DE AGUILAR.

St. Augustine, 27th May, 1830. I certify that the preceding is a correct translation of the Spanish document annexed.

A. GAY, *Translator*
And Interpreter of the Superior Court.

And, afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-two, to which term this cause had come by regular continuance, to wit: On Thursday, the tenth day of said term, and the seventeenth of said month, the following entry of record was made in this cause, to wit:

FRANCIS RICHARD,
against
THE UNITED STATES OF AMERICA. } Land Claim, 16,000 acres.

Hearing of cause commenced.

Whereas Francis Richard did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the 25th February, 1829, filed his petition for the confirmation of certain lands therein mentioned, in the clerk's office of the superior court for the eastern district of Florida: and whereas the attorney of the United States for this district, did duly appear and answer said petition, and this cause coming on to be heard this day, the said claimant, by his counsel, offered in evidence the surveys of the land claimed in this case, made by Andrew Burgevin, and dated 26th day of November, and 1st day of December, 1824, and filed herein; to the receiving of which surveys in evidence the said counsel for the United States objected, alleging that the same were made by the said surveyor without any legal authority, and that they are without sufficient verification as to their correctness; which objection was sustained by the court, and the said surveys not admitted in evidence in this case: and the court further decided that, if the said surveys had been verified by the oath of the surveyor who made them, that then

they might be received as furnishing a direction to the court as to the location of the land claimed; and the said petition of the said claimant, and the answer of the attorney of the United States thereto, together with the grant and testimony filed herein, having been read to the court, and the arguments of counsel heard on both sides, this claim was submitted to the court for its decree thereon; but the court not being sufficiently advised of and concerning the premises, took time that further translations, connected with this cause, might be furnished it.

Translation of the memorial of Francis Richard to Governor Coppinger, and decree of the Governor thereon, made by order of the court in this case, by the translator of this court, to wit:

[TRANSLATION.]

Translation of memorial and decree by order of the court by the translator.

His excellency the Governor.—Don Francisco Richard, an inhabitant of the river St. John, with all due respect, represents to your excellency, that wishing to employ his means in a manner beneficial to the province and to himself, and observing the great scarcity existing in this province of planks and other timber fit for building, both in reference to the home consumption, and to the purposes of trade, he intends to erect a water saw mill for this effect; and as for that purpose a fit situation is necessary, such as is offered on Pottsburg creek, bounded by the lands of Strawberry Hill; and the mentioned tract not being sufficient for the indicated objects, he requests that the quantity equivalent to the object of his petition be granted to him in Cedar swamp, about one mile distant, east of McQueen's mills, in order to get cypresses for lumber: therefore, he supplicates your excellency, submissively, to grant him your superior license, and the expressed tract of five miles of land, for the purposes he proposes to himself, in order that, what he solicits being granted, he may with all possible brevity commence this advantageous work, and in order that he may have in the said tract the necessary timber; which favor he hopes to receive from the justice of your excellency. St. Isabel plantation, river St. John, on the eleventh of May, one thousand eight hundred and seventeen.

FRANCISCO RICHARD.

Decree.—St. Augustine, fourth of June, one thousand eight hundred and seventeen. Considering the benifice and utility which will accrue in favor of the province, if Don Francisco Richard carries into effect what he proposes, I grant to him license to construct, without prejudice to a third party, a water saw mill on the creek known under the name of Pottsburg, bounded by the lands of Strawberry hill; and this taact not being sufficient, I grant him the equivalent quantity in Cedar swamp, about a mile east of McQueen's mills, but with the precise condition that, as long as he does not erect said machinery, this grant will be considered null, and without value nor effect, until that event takes place; and then, in order that he may not receive any prejudice from the expensive expenditures which he is preparing, he will have the faculty of using the pines and other trees comprehended in the square of five miles, or the equivalent thereof; which five miles are granted to him in the mentioned place; the avails of which he will enjoy without any defalcation whatever. And, for his security, let a certified copy be issued to him of this expedient, which will be deposited in the archives of the Secretary's office as a testimony in all events.

COPPINGER.

I, Don Thomas de Aguilar, sub-lieutenant of infantry, and secretary of the Government of the place of St. Augustine and of the province of East Florida, for his Majesty, do certify that the preceding copy is well and faithfully made, and drawn literally from the original thereof, which remains in the archives under my charge, to which I refer; and in virtue of what is ordered in the preceding decree, issued this day, and herein inserted, I give the present, in St. Augustine of Florida, on the fourth of June, one thousand eight hundred and seventeen.

THOMAS DE AGUILAR.

Translation made by the Keeper of the Public Archives of East Florida, in this case, by order of the court, to wit:

[TRANSLATION]

To his Excellency the Governor:

Translation of memorial & decree, by keeper of public archives, by order of the court.

Francis Richard, esq., an inhabitant of St. John's river, with due respect, states to your Y. E. that the scarcity of sawed lumber in this province, for its consumption and exportation, has induced him to employ his resources in the construction of a water saw mill on Pottsburg creek, which is a good site, on the lands adjoining Strawberry hill; and if there be not sufficient lands, the deficiency, to the amount he petitions for, to be located on Cedar Swamp, about a mile to the east of McQueen's mills, from which place he may draw cypress timber; and, as the establishment of this machinery will be advantageous to the province, and to the interest of the petitioner, he therefore respectfully prays Y. E. will grant him his superior permission, and also five miles square of land, that he may possess thereon the necessary timber for the purposes aforesaid, and proceed, as soon as possible, to construct this useful work—a favor which he hopes to receive from the justice of your Y. E. St. Isabel plantation, on the river St. John, May 11th, 1817.

FRANCIS RICHARD, junr.

St. Augustine, June 4th, 1817. Taking into consideration the benefit and utility which would redound to the improvement of the province, if what Francis Richard, esquire, proposes is carried into effect, permission is hereby granted him, without injury to a third person, to erect a water saw mill on Pottsburg creek, on the lands adjoining Strawberry hill; and if there be not sufficient lands, the deficiency (to the amount granted) on Cedar Swamp, about a mile to the east of McQueen's mills, but with the precise condition, that, until he shall establish the said machinery, this concession shall be held as not made, and of no value or effect until that event takes place; that then, to prevent his being injured by the great expenses he is preparing to incur, he may make use of the pine and other trees comprised within the five miles square, or its equivalent, which is hereby granted him at the place aforesaid, the advantages of which he will enjoy without any other person having the power to deprive him of any part thereof. And for his security, let a certified copy be issued of this proceeding; and let the original be filed in the Secretary's office for proof in any event.

COPPINGER.

[TRANSLATION.]

To his Excellency the Governor:

Literal translation of memorial and decree, by keeper of public archives, by order of the court.

Francis Richard, esquire, an inhabitant on the banks of the river St. John's, with due respect represents to Y. E. that, wishing to employ his resources in benefit of the province, and for his interest, perceiving the great scarcity which exists in the province of boards and other lumber for buildings, as much for the home consumption as for commerce, he intends to build a water saw mill for that purpose; and, as for carrying this into effect an adequate site is necessary, such as Pottsburg creek is, which bounds the lands called Strawberry hill; and if these be not sufficient land for the indicated object, a grant be made to him equivalent (or to complete) the amount he petitions for on Cedar Swamp, about one mile east of McQueen's mills, that he may draw from there cypresses for boards. Wherefore he humbly prays your excellency will grant him your superior permission, and the aforesaid land of five miles for the purposes alluded to, that he may, as soon as possible, make a beginning of this beneficial work, and for which he may have, on the said land, the necessary timber; a favor which he hopes to receive from the justice of Y. E. St. Isabel's plantation, on the river St. John's, May 11th, 1817.

(Signed,) FRANCIS RICHARD, the Son.

St. Augustine, June 4th, 1817. Taking into consideration the benefit and utility, that ought to redound in favor of the province, if what Francis Richard, esquire, proposes is carried into effect, it is granted to him, without injury to a third person, that he build a water saw mill on the creek known by the name of Pottsburg, bounding the lands called Strawberry hill; and, if there be not sufficient land, its equivalent on Cedar Swamp, about one mile east of McQueen's mills, but with the precise condition that, until he erect the said machine, this concession will be considered as not made, and without any worth or effect until that event arrives; that then, not to injure him in the large expenses which he proposes, he may make use of the pine and trees comprehended within the square of five miles, or its equivalent, that are granted to him on the above described place, the utility of which he will enjoy without defalcation of any thing by another person; and for his security, let a certified copy be issued to him of this proceeding, which will be filed in the Secretary's office for proof in any event.

(Signed,) COPPINGER.

I, Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a literal translation of the original, in the Spanish language, on file in my office, which translation is made at the request of the Hon. Joseph L. Smith, judge of the superior court of the eastern district of the Territory of Florida.

Witness my hand and seal of office, at the city of St. Augustine, Territory aforesaid, this twenty-first day of May, A. D. one thousand eight hundred and thirty-two.

[SEAL.]

ANTONIO ALVAREZ, *K. P. A.*

Opinion of the honorable Joseph L. Smith, judge of the superior court for east Florida, filed in this cause on the twenty-sixth day of May, in the year of our Lord one thousand eight hundred and thirty-two, to wit:

Superior Court, East Florida.

FRANCIS RICHARD, *vs.* The UNITED STATES. } Mill grant for 16,000 acres.

Opinion of the court. The court confirms this grant, directing its location at Pottsburg and at Cedar Swamp, according to Coppinger's decree of June 4, 1817, the boundaries to be the same as those marked in the plats of Burgevin, on file, qualified, however, as hereinafter expressed.

The surveys of Burgevin are not received by the court as conclusive: but a boundary must be given, and according to the established custom of the Spanish authorities in this province, if the original grant did not give the precise boundaries, it became the duty of these authorities to order a survey on petition of the grantee, or in some other way, to define the limits of the lands granted. This not having been done as to this particular grant, before the transfer of the province, the duty has devolved on the United States, and by the act of Congress on this court, and no better guide has been furnished than these plats of Burgevin's surveys, no greater amount is intended to be decreed to the grantee than 16,000 acres. If, therefore, the surveyor of the United States, in following the lines marked upon these surveys, shall find that they contain more than that amount, he is directed to contract and limit them to it.

This grant, like many others, both as to the memorial and the concession, is, in its phraseology, without a desirable precision. But when the object of the petitioner and of the Government of the province is considered, I think we need not doubt as to its meaning, or that this, like other mill grants, was a conveyance of the fee, to become perfect and absolute upon the erection of the mill; and that, till such mill should be built, the grantee possessed no right in virtue of it, but that of cutting the pine timber, and this only for the purpose of building, or of aiding in the building of the mill; but, having undertaken the work, that *then*, while in a state of preparation or construction, to aid therein, and to meet the expenses thereof, he might cut the pine timber; but, having completed the work, that the grant and the grantee's right to the land became absolute.

And this, so far as I have been able to obtain information, is the character of mill grants generally in East Florida.

The building of the mill and its continuance to the present day have been clearly proved.

May 26, 1832.

And afterwards, at the same term of May, in the year of our Lord one thousand eight hundred and thirty-two, to wit: on Saturday the seventeenth day of said term, and the twenty-sixth day of said month, the following decree of confirmation was passed and entered of record, in this case, to wit:

FRANCIS RICHARD, *against* The UNITED STATES OF AMERICA. } Land claim 16,000 acres.

Decree of confirmation. This day came. as well the counsel for the said claimant, as the attorney of the United States for this district; and the court now being sufficiently advised of, and concerning the claim of the said

petitioner, and having maturely considered the same, together with the evidence and arguments of counsel on both sides, doth order, adjudge, and decree that his claim is valid, and that, in accordance with the laws and customs of Spain, and under and by virtue of the late treaty of amity, settlement, and limits, between the United States of America and the King of Spain, ratified by the President of the United States on the 22d February, 1821; and under and by virtue of the laws of nations, and of the United States, it is hereby confirmed, adjudged, and decreed, unto the said claimant, to the extent and agreeably to the boundaries, as in the grant for the said land, and as in the serveys thereof, made by Andrew Burgevin; provided said surveys do not include a greater quantity of land than sixteen housand acres, and dated the first survey of fourteen thousand four hundred acres, the first day of November, 1824, and the second survey of sixteen hundred acres 26th November, 1824, and filed herein is set forth, to wit: Said tract of fourteen thousand four hundred acres is situated on Pottsburg creek; the first line of the survey thereof runs from a branch of said creek, south eighty-four degrees, west eighty-four chains, to a pine marked ×; the second line runs from said pine south five degrees, west eighty four chains, to another pine marked ×; the third line *line* runs from said pine south thirty degrees east, one hundred and eighty-five chains, to another pine marked ×; the fourth line runs from said pine south sixty degrees east ninety one chains, to another pine marked ×; the fifth line runs from said pine south twenty-five degrees, east one hundred and sixty five chains, to a pine marked ×; the sixth line runs from said pine north thirty degrees, east eighty-five chains, to another pine marked ×; the seventh line runs from said pine north three degrees, east one hundred and ninety-five chains, to another pine marked ×; the eighth line runs from said pine north sixty-five degrees, east twelve chains, to another pine marked ×; the ninth line runs from said pine north one hundred and fifteen chains, to another pine marked ×; the tenth line runs from said pine north sixty-five degrees, west ten chains, to another pine marked ×; the eleventh line runs from said pine north ten degrees, west three hundred and eighteen chains, to another pine marked ×; the twelfth line runs from said pine north forty degrees, west one hundred and ten chains, to another pine marked ×; the thirteenth line runs from said pine south fifteen degrees, west eighty chains, to another pine marked ×; and the fourteenth line runs from said pine west one hundred chains to a live oak on the margin of the river St. Johns, marked ×. The second survey is of sixteen hundred acres, situated in a place called Cedar Swamp, three or four miles south of St. Johns Bluff, and has the following lines, to wit: The first line runs from a pine marked ×, north two hundred chains, to another pine marked ×; the second line runs from said pine, west eighty chains, to a black oak marked ×; the third line runs from said black oak south two hundred chains. to a cypress marked ×; and the fourth line runs from said sypress east eighty chains, to the pine at the beginning of the 1st line

Appeal to the Supreme Court.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house, in the city of St. Augustine, at the term of October, in the year of our Lord one thousand eight hundred and thirty-two, to wit, on Saturday, the sixth day of said term, and the sixth day of said month, the following appeal was entered of record herein, to wit:

FRANCIS RICHARD,
against
THE UNITED STATES OF AMERICA. } *Land Claim* 16,000.

This day came Thomas Douglass, esquire, attorney of the United States for this district, and moved the court that an appeal be granted in this case, on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; which is granted accordingly.

[Here follows the plats.]

SUPERIOR COURT, *District of East Florida, to wit:*

I, George Gibbs, clerk of the said court, for the district aforesaid, do hereby certify that the foregoing fifty pages and two lines contain a full, true, and complete transcript of the record and proceedings had in the cause therein named; and that the foregoing two surveys, and the explanations thereto attached, are truly and faithfully copied from the originals on file in my office. Witness my hand this twentieth day of December, A. D. 1832.

GEO. GIBBS, *Clk.*

By the honorable Robert Raymond Reid, Judge of the Superior Court for East Florida, to whom these presents shall come, be seen, or made known—Greeting

Know ye, that George Gibbs, who hath signed the foregoing attestation, is clerk of the superior court for the district aforesaid; that all due faith and credit are, and ought to be, given to his acts as such; and that the foregoing attestation is in due form of law.

In testimony whereof, I have hereto set my hand, and caused the [L. S.] seal of the said court to be affixed, this twentieth day of December, A. D. 1832.

ROBT. RAYMOND REID,
Judge S. C. Dist. E. Florida.